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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/815,301
Filing Date: March 31, 2004
Appellant(s): RAVERDY ET AL.

_____
Thinh V. Nguyen
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/03/2010 appealing from the Office action mailed

04/13/2010.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is incorrect. As per Office Action mailed on 04/13/2010, claims 27-30 are rejected under 35 U.S.C. 101; claims 1-6, 14-19 and 27-30 are rejected under 35 U.S.C. 102(e); claims 7, 12-13, 20 and 25-26 are rejected under 35 U.S.C. 103(a); and claims 8-11 and 21-24 are rejected under 35 U.S.C. 103(a).

(4) Status of Amendments

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal in the brief is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Communications Magazine, IEEE	Feeney et al.	06-2001
US 20040133689 A1	Vasisht	07-2004
US 7284062 B2	Krantz et al.	10-2007

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 27-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

   a. Applicant has amended claim 27 with the limitations of "creator to create a WKG" and "creator to create a SBG" and referred to paragraph 31 of applicant's specification for support. Examiner has read the paragraph and found that the creator as per paragraph 31 of applicant's specification is of software nature, e.g. "some module on the device may dynamically create a WEP key". That is not a process, machine, manufacture or composition of matter as per 35 U.S.C. 101. Applicant has further referred to paragraphs 19-20 for support, i.e. " a WKG may be created and/or joined by any device …" A claim language may be read in light of applicant's specification. However, the claim language must be specific about the reference, i.e. the creator should be specifically referred to as a device, e.g. a computing device is used to create a WKG. Otherwise, the creator would be read as a person or a company as per paragraph 31 of applicant's specification. Claim

27 and its dependent claims are thus rejected. For the purpose of applying art, claims 27-30 are considered within the same scope as claims 1 and 4-6.

2. Claims 1-6, 14-19 and 27-30 rejected under 35 U.S.C. 102(e) as being anticipated by Vasisht (US 20040133689 A1), hereinafter referred as Vasisht.

    a. Regarding claim 1, Vasisht disclosed a method comprising: creating a session-based ad-hoc group (SBG) within a well-known ad-hoc group (WKG) for impromptu interactions among unrelated mobile users, the SBG being one of an open SBG and a restricted SBG (paragraph 18: Zero Configuration Utility for WiFi gives users a list of available of WiFi networks; paragraphs 9 and 13-14: WiFi with or without WEP), the WKG having a WKG network configuration and a set of WKG interaction protocols, the SBG having SBG network configuration and a set of SBG interaction protocols (paragraph 18: Zero Configuration Utility for WiFi, broadcast SSID for user to log on, should the network require authentication or an encryption key; paragraph 14: WEP; paragraph 13: 802.11 protocol suite); and advertising information pertaining to the SBG on the WKG, the information including an access method for joining the restricted SBG (paragraph 18: give a user a list of available WiFi networks, broadcast SSID for user to log on, should the network require authentication or an encryption key; paragraph 14: WEP; paragraph 13: 802.11 protocol suite).

    b. Regarding claim 2, Vasisht disclosed the method of claim 1 wherein creating the SBG comprises obtaining the WKG network configuration and the set of WKG interaction protocols (paragraph 35: receiving settings for certain parameters that

enable the device to operate; paragraph 112: download network setting to devices enabling configuration).

c. Regarding claim 3, Vasisht disclosed the method of claim 2 wherein obtaining the WKG network configuration and the set of WKG interaction protocols comprises obtaining one of a pre-configuration on a retail device, a downloadable client software, and a public advertisement (paragraph 9: default settings; paragraph 18: broadcast SSID for user to log on).

d. Regarding claim 4, Vasisht disclosed the method of claim 1 wherein the WKG creates one of an open WKG and a restricted WKG, the open WKG having no access control, the restricted WKG having an access control to selected users (paragraph 9: WiFi without WEP; paragraph 18: give a user a list of available WiFi networks, broadcast SSID for user to log on).

e. Regarding claim 5, Vasisht disclosed the method of claim 1 wherein creating the SBG comprises: creating one of the open SBG and the restricted SBG, the open SBG having no access control, the restricted SBG having an access control to selected users (paragraph 9: WiFi with WEP; paragraph 18: give a user a list of available WiFi networks, broadcast SSID for user to log on, should the network require authentication or an encryption key).

f. Regarding claim 6, Vasisht disclosed the method of claim 5 wherein creating one of the open SBG and the restricted SBG comprises: selecting at least an administrator to manage access to the restricted SBG and control changes to the SBG network configuration (paragraph 18: give a user a list of available WiFi

networks, broadcast SSID for user to log on, should the network require authentication or an encryption key).

g. Claims 14-19 are of the same scope as claims 1-6. These are rejected for the same reasons as for claims 1-6.

h. Claims 27-30 are of the same scope as claims 1 and 4-6. These are rejected for the same reasons as for claims 1 and 4-6.

3. Claims 7, 12-13, 20 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasisht and further in view of Krantz et al. (US 7284062 B2), hereinafter referred as Krantz, and Feeney et al. (Communications Magazine, IEEE, June 2001, p. 176-181 or p. 1-12 per applicant's disclosed NPL), hereinafter referred as Feeney.

a. Vasisht has shown claims 1 and 5-6 as above. Vasisht does not show (claim 7) selecting an advertising node according to a criteria within the SBG; collecting information on the SBG; periodically joining the WKG to broadcast the SBG information and to collect information on the WKG or a nearby SBG; and returning to the SBG to advertise the information collected on the WKG to SBG members. However Vasisht shows (paragraph 18) giving a user a list of available WiFi networks, broadcast SSID for user to log on, should the network require authentication or an encryption key; and (paragraph 14) using WEP to limit access and communication with WEP among wireless devices.

b. Feeney has shown for claim 7 that (abstract) an ad hoc network network must provide administrative services including address allocation, name resolution,

service location, authentication and access control policies without a pre-establized or centralized network management (page 8, section with heading "Network partition and merge") joining group in an analogous art for the purpose of providing an ad hoc networking based application.

c. Krantz has shown for claim 7 that (column 12, lines 22-38) a data routing device can be a device capable of grouping computer systems together in a single broadcast domain based on criteria other than physical location in an analogous art for the purpose of automatic provisioning computer system for accessing a network.

d. It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify Vasisht's functions of using WEP/802.11 in configuring a user network with limit access with Feeney's functions of establishing ad hoc network without pre-established or central network management and Krantz's functions of using a data routing device to group computer systems.

e. The modification would have been obvious because one of ordinary skill in the art would have been motivated to further apply functions of configuring wireless network with access control as per Vasisht as applied to Feenway's spontaneous networking (section 2 on pages 3-4 and section 5 on page 8-10) with administration functions (abstract) where a data routing device is used to group computer systems in a broadcast domain (Fig. 2).

     f. Claims 12-13, 20 and 25-26 are of the same scope as claims 1 and 5-7. These are rejected for the same reasons as for claims 1 and 5-7.

4. Claims 8-11 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasisht and further in view of Feeney.

     a. Vasisht has shown claims 1 and 5-6 as above. Vasisht does not show (claim 8) further comprising: joining the WKG according to user configuration. However Vasisht shows (paragraph 18) giving a user a list of available WiFi networks, broadcast SSID for user to log on, should the network require authentication or an encryption key; and (paragraph 14) using WEP to limit access and communication with WEP among wireless devices.

     b. Feeney has shown for claim 8 that (page 8, section with heading "Network partition and merge") joining group in an analogous art for the purpose of providing an ad hoc networking based application.

     c. It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify Vasisht's functions of using WEP/802.11 in configuring a user network with limit access with Feeney's functions of establishing ad hoc network without pre-established or central network management.

     d. The modification would have been obvious because one of ordinary skill in the art would have been motivated to further apply functions of configuring wireless network with access control as per Vasisht as applied to Feenway's spontaneous

networking (section 2 on pages 3-4 and section 5 on page 8-10) with

administration functions.

e. Regarding to claims 9-11, Feeney has further shown (page 8, section with heading

"Network partition and merge") partitioning the network as a project team is

divided two group and later merging the network as the project rejoins.

f. Claims 21-24 with respect to claim 14 are of the same scope as claims 8-11 with

respect to claim 1. These are rejected for the same reasons as for claims 8-11.

(10)   Response to Argument

In response to appellant's argument on claim 27-30 rejections under 35 U.S.C. 101 in

subsection A of section VII, i.e. Arguments. Examiner has reviewed the claim language with

respect to appellant's argument.

1. Applicant argues that the limitations of "creator" as per claim 27 are of device nature

as read into various paragraphs of applicant's specification.

2. Claim 27 language recites "a well-known ad-hoc group (WKG) creator to create a

WKG for impromptu interactions among unrelated mobile users, the WKG having a

WKG network configuration and a set of WKG interaction protocols; and a session-based

ad-hoc group (SBG) creator to create a SBG within the WKG to allow a user to interact

with other mobile users, the SBG being one of an open SBG and a restricted SBG, the

SBG having SBG network configuration and a set of SBG interaction protocols, the SBG

advertising information pertaining to the SBG on the WKG, the information including an

access method for joining the restricted SBG".

3. In applicant's argument received on 12/23/2008, applicant has argued similarly that a

WKG represents a physical are that corresponds to the radio range of devices (see 1st

paragraph on page 10). However, the claim 27 language is of system nature without

specific reference to any physical means as argued. Thus applicant needs to specifically

include claim language to include sufficient evidence of physical means.

4. In applicant's amendment received on 07/21/2009, applicant has amended claim 27

with the limitations of "creator to create a WKG" and "creator to create a SBG" and

referred to paragraph 31 of applicant's specification for support. Examiner has read the

paragraph and found that the creator as per paragraph 31 of applicant's specification is of

software nature, e.g. "some module on the device may dynamically create a WEP key".

That is not a process, machine, manufacture or composition of matter as per 35 U.S.C.

101. Applicant has further referred to paragraphs 19-20 for support, i.e. "a WKG may be

created and/or joined by any device …" A claim language may be read in light of

applicant's specification. However, the claim language must be specific about the

reference, i.e. the creator should be specifically referred to as a device, e.g. a computing

device is used to create a WKG. Otherwise, the creator would be read as a person or a

company as per paragraph 31 of applicant's specification.

5.   In response to applicant's similar argument received 12/28/2009, Examiner

appreciates applicant's narrative discussion on the merit of claim 27 with respect to 35

U.S.C. 101 (see 3rd paragraph on page 8 through 4th paragraph on page 14 of current

amendment). However, the discussion of Abele, the Bilski is on a "process" claim (or a

method claim). Claim 27 is said to be of a system. Thus the discussion should focus on

the substance of being a system rather the method implemented in a system. The

"creator" as per paragraphs 22 through 31 of applicant's specification is of either any

entity nature, such as a company, a government source community, or an individual

implemented as a process. However there is no specific claiming a physical system, not

speaking on how the creator is really a person or a software program stored in a computer

readable medium when executed will carry steps to fulfill the functions of limitations.

Thus applicant's Bilski discussion is good one but applicable to a process (or method)

claim and not to a system claim.

6. Claim 27 directs a description on a system of grouping that is a conceptual
description without statutory subject matter, i.e. a process, machine, manufacture or
composition of matter under 35 U.S.C. 101. The claim is without specific reference to
any physical means as argued. Thus applicant needs to specifically include claim
language to include sufficient evidence of physical means. Otherwise, it could only be
considered of conceptual or at most of software system nature, i.e. particular grouping.

7. Examiner had pointed out as per claim rejections above that the limitations could be
interpreted as software per se in light of paragraph 31 of the Specification. Examiner
could not read the limitations into particular paragraphs as per applicant's not specific
claimed description. Thus claims 27-30 are rejected under 35 U.S.C. 101.

In response to appellant's argument on claim 1-6, 14-19 and 27-30 rejects under 35

U.S.C. 102(e) over Vasisht (US 20040133689 A1) in subsection B o section 7, i.e. Arguments.

1. Applicant has argued that Vasisht does not have the combination of limitations as
presented in claims 1, 14 and 27.

2. Applicant has that Vasisht does not disclose, either expressly or inherently, at least
one of: (1) creating a session-based ad-hoc group (SBG) within a well-known ad-hoc
group (WKG) for impromptu interactions among unrelated mobile users, the WKG
having a WKG network configuration and a set of WKG interaction protocols, the SBG
having SBG network configuration and a set of SBG interaction protocols; and (2)
advertising information pertaining to the SBG on the WKG, as recited in independent
claims 1 and 14, and (3) a well-known ad-hoc group (WKG) for impromptu interactions
among unrelated mobile users, the WKG having a WKG network configuration and a set

of WKG interaction protocols; and (4) a session-based ad-hoc group (SBG) within the

WKG to allow a user to interact with other mobile users, the SBG having SBG network

configuration and a set of SBG interaction protocols, the SBG advertising information

pertaining to the SBG on the WKG, as recited in independent claim 27.

3. Applicant has pointed to paragraphs 24-27 of applicant's specification to support the

argued limitation of "creating a session-based ad-hoc group (SBG) within a well-known

ad-hoc group (WKG) for impromptu interactions among unrelated mobile users, the

WKG having a WKG network configuration and a set of WKG interaction protocols, the

SBG having SBG network configuration and a set of SBG interaction protocols".

Examiner has reviewed paragraphs 24-27. Applicant is claiming the limitation on a WiFi

based system. Examiner has reviewed the cited references from Vasisht as (paragraph 18)

give a user a list of available WiFi networks, broadcast SSID for user to log on, should

the network require authentication or an encryption key; (paragraph 14) WEP; and

(paragraph 13) 802.11 protocol suite. Vasisht is used to show one skill in the art of WiFi

would recognize that by using SSID a WiFi access to an specific access point is

configured; by using WEP a open or restrict access to the access point is furthered

limited. These read upon the limitations where the access to the access point defines a

workgroup and the further specification of SSID in combination of WEP further limits to

a "open" or a "restrict" access to the access point.

4. Applicant argued that Vasisht does not advertise information pertaining to the SBG

on the WKG. Examiner has reviewed applicant's specification on SSID. Applicant has

stated that (paragraph 18) SSID and encryption key are well-known WiFi network

configuration; (paragraph 33) WEP key is dynamically created based upon BSSID; and

(paragraph 40) the advertising information includes SSID. Vasisht has shown (paragraph

18) that the networks broadcast their SSID.

5.   Applicant has further argued that even if the WiFi networks were equivalent to the

SBG, the SSID is not "an access method for joining the restricted SBG". Examiner has

reviewed applicant's specification on "restrict" and found in paragraph 23 "open WKG

has not access control, e.g. does not specify any wireless equivalent privacy (WEP) key.

This indicates that WEP is used to control or define the access to a work group. Thus,

WEP is used as an access method for defining a restricted or open SBG.

6.   In a similar argument received on 07/21/2009, applicant has argued that Vasisht does

not disclose the limitation of "creating a session-based ad-hoc group (SBG) within a

well-known ad-hoc group (WKG) for impromptu interactions among unrelated mobile

users" (1st paragraph on page 12 of amendment received on 07/21/2009). Examiner has

reviewed paragraph 15 of applicant's specification in using well-know WiFi ad-hoc

network for unrelated nearby nodes to communicate with each other. Examiner does not

see a difference between using WiFi access point to facilitate the communication between

two mobile users or using WiFi ad-hoc network, i.e. peer-to-peer (see paragraph 83 per

Vasisht) in term of interactions among unrelated mobile users. As both applicant and

Vasisht are using WiFi for setting up communication among mobile users, Vasisht's

disclosure reads upon the argued limitation. Applicant has argued that applicant SBG is

created for specific purpose (2nd paragraph on page 12 through 1st paragraph on page 13

of amendment received on 07/21/2009). However, it is not clear if the pertaining

limitation, e.g. advertising information per claim 1, is different in scope from what is

disclosed per paragraph 18 of Vasisht, i.e. broadcast SSID for user to log on. As one skill

in art would know that SSID could be used to designate the identity of access point

provider, e.g. Panera or Starbuck. Applicant has further argued that SSID is not an access

method for joining the restricted SBG (2nd paragraph on page 13 of amendment received

on 07/21/2009). It is clear that both applicant and Vasisht are using WiFi to provide

access to mobile user. Here Vasisht's disclosure of using WEP is to provide a mobile user

an access to a encrypted WiFi access for either home network or peer-to-peer network

(paragraph 83), i.e. applicant's restricted SBG (see paragraph 28 of applicant's

specification). Applicant has further argued that the advertising node collect information

on the SBG such as the SSID, the membership, the interaction protocol, and the login

procedure as per paragraph 40 of applicant's specification (3rd and 4th paragraphs on page

14 of amendment received on 07/21/2009). Vasisht's disclosure in paragraph 18: Zero

Configuration Utility for WiFi, broadcast SSID for user to log on, should the network

require authentication or an encryption key; in paragraph 14: WEP is used for WiFi

connection; and in paragraph 13: using 802.11 protocol suite that reads upon the claimed

limitation of "advertising information pertaining to the SBG on the WKG, the

information including an access method for joining the restricted SBG". Applicant argued

on the response to argument with respect to paragraph 23 of applicant's specification (5th

paragraph on page 14 through 3rd paragraph on page 15 of amendment received on

07/21/2009). As per discussion in item 'd' above, the restricted SBG per applicant is

using WEP of WiFi. The membership discussion is per applicant's specification and is not reflected in the claimed invention.

7. In a similar argument received on 12/28/2009, applicant has argued the limitation of "for impromptu interactions among unrelated mobile users" citing Vasisht's disclosure that all the nodes devices have the same SSID and are connected to the same home network. Applicant has discussed in paragraphs 17-20 and Fig. 1 of applicant's published specification, using WLAN with SSID and encryption key for joining working groups for unrelated notes to communicate with each other. That is consistent with Vasisht's discussion of using WIFI, i.e. WLAN, with SSID and authentication or an encryption to permit working with other node devices in a home network, a Small Office Home Office network. Applicant has argued that SSID does not include an access method for joining the restricted SBG (see 2nd paragraph on page 19 of amendment received on 12/28/2009). Applicant has discussed joining work group with SSID and the encryption key (paragraph 20 of applicant's published specification) to interact with each other without knowing each other; discovering in WiFi with SSID (paragraphs 33 and 42 of applicant's published specification). That is consistent with Vasisht's discussion on using Microsoft's Zero Configuration Utility for WiFI for using available WiFi network with broadcasting SSID.

In response to appellant's arguments on claim 7, 12-13, 20 and 25-26 rejections under 35 U.S.C. 103(a) in subsection C of section 7, i.e. Arguments.

1. Applicant has argued that Examiner has not met the burden of establishing a prima facie case of obviousness.

2. Examiner has reviewed Vasisht, Krantz and Feeney with respect to the limitations of

claimed invention not disclosed in Vasisht, i.e. the limitations of claims 7-13, 20 and 25-

26. Examiner has reviewed the limitations of 7-13, 20 and 25-26 as in light of applicant's

specification. Each of Vasisht, Krantz and Feeney teaches or suggests the claimed

invention significantly. All three of Vasisht, Krantz and Feeney have taught grouping

based upon WiFi or similar technologies, e.g. Bluetooth, VPN, Home Phone Networking.

Applicant's concept of workgroup and ad-hoc work group and their administration is well

taught in Feeney. Feeney has described in section 5 the enabling technologies as

developed within IETF Zero Configuration Networking that is also shown in Vasisht's

paragraphs 18 and 110. Krantz is brought in to address the limitation of "selecting an

advertising node according to a criteria within the SBG" in claim 7. Examiner has further

reviewed the usage of "criteria" within applicant's original specification and claim set

and found it is taught in paragraph 39. Examiner has re-reviewed Vasisht and found

"criteria" is also taught in paragraph 79 implicitly. The reference cited from Krantz is

used to show "criteria" more explicitly. The limitation on "criteria" is known to one skill

in the art. Considering all these circumstance evidence, each of Vasisht, Krantz and

Feeney would read upon the claimed invention significantly and thus the motivation of

presenting Vasisht, Krantz and Feeney together in showing applicant's claimed invention

is obvious.

3. Applicant has argued further on Vasisht's disclosure (paragraph 79) on the claim 7's

limitation of "selecting an advertising node according to a criteria within the SBG" in

light of paragraph 41 of applicant's published specification. However, applicant's

claimed limitation of "criteria" does not include specific description on what and how specific criteria would be used. The predetermined network configuration criteria (per paragraph 79 of Vasisht) provides some meaningful criteria for home networking, i.e. some kind of secured network. Krantz's reference in disclosing the limitation of "criteria" is cited in item "c" of claim 7, 12-13, 20 and 25-26 rejections under 35 U.S.C. 103(a) above.

In response to appellant's arguments on claim 8-11 and 21-24 rejections under 35 U.S.C. 103(a) in subsection D of section 7, i.e. Arguments.

1. Applicant has argued that Examiner has not met the burden of establishing a prima facie case of obviousness as in appellant's arguments on claim 7, 12-13, 20 and 25-26 rejections under 35 U.S.C. 103(a). The similar discussion as in item '2' above in the response to appellant's arguments on claim 7, 12-13, 20 and 25-26 rejections under 35 U.S.C. 103(a) above should apply here.

2. Applicant has argued further that Feeney's disclosure (page 8, section with heading "Network partition and merge") on the claim 8's limitation of "joining the WKG according to user configuration". Examiner has reviewed and found in applicant's paragraph 18 of specification description on the limitation. Applicant has discussed using WiFi in joining of groups with same configuration. However, applicant's has presented claim 7 with further limitation of "joining the WKG according to user configuration". Vasisht describes (paragraph 18) giving a user a list of available WiFi networks, broadcast SSID for user to log on, should the network require authentication or an encryption key; and (paragraph 14) using WEP to limit access and communication with

WEP among wireless devices. Applicant's "joining group under the same configuration is

not significant different from Vasisht's disclosure in setting SSID for grouping as well as

discussed in applicant's specification. However, Feeney is brought in to show on page 8

"joining a group" by exchanging electronic business cards and transferring secret session

key to a spontaneous VPN for a meeting, i.e. the concept of joining group with secret

session key. Together Feeney and Vasisht read upon claim 8 with the further limitation in

addition to claims 1 and 5-6.

Additional arts are identified and disclosed in Office Action mailed on 04/13/2010,

including:

    a. Narayanaswami et al. (US 7185204 B2) Method and system for privacy in public
networks

    b. Cam Winget (US 7275157 B2) Facilitating 802.11 roaming by pre-establishing
session keys

    c. Grobler et al. (US 20050048997 A1) Wireless connectivity module

    d. Redlich et al. (US 20050114490 A1) Distributed virtual network access system
and method

    e. Manchester et al. (US 20050198221 A1) Configuring an ad hoc wireless network
using a portable media device

(11)   Related Proceeding(s) Appendix

Applicant has recited a related application # 10/223844 under Appeal 2009-005941. The

Board has rendered a decision on 04/30/2010 on Appeal 2009-005941. Applicant is to include a

copy of the decision.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Peling A Shaw/

Primary Examiner, Art Unit 2444

November 16, 2010

/William C. Vaughn, Jr./

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